

TICKETS TO NONPROFIT AND POLITICAL FUNDRAISERS FPPC REGULATION 18946.4 AS AMENDED

On August 14, 2008, the FPPC amended Regulation 18946.4. Before the amendment, the regulation placed no value on tickets received by public officials to fundraisers for Internal Revenue Code Section 501(c)(3) organizations and political committees. The regulation allowed public officials to receive tickets from any source without reporting them as gifts and without limit.

As amended, Regulation 18946.4 places several new restrictions on the receipt of fundraiser tickets. The amendments went into effect October 4, 2008.

The amended regulation narrows the “no value” exception for 501(c)(3) organization fundraisers and the valuation methods for other nonprofit and political fundraisers so that it now applies only to a **single ticket** (or other admission privilege) received by a public official **from the nonprofit organization or committee** holding the fundraising event for each event it holds. The ticket may only be used by the official who receives it.

The regulation also retains the valuation method for a single ticket (or other admission privilege) to a fundraising event for a nonprofit organization that is not qualified under Internal Revenue Code Section 501(c)(3), except that it now applies to one ticket only as described above. Finally, as explained below, the gift limit applies to an official's use of tickets to fundraising events for 501(c)(3) organizations. The “no value” exception only applies to the nondeductible amount of the ticket(s), up to the gift limit.

501(c)(3) Organization Fundraiser

A single ticket provided to an official by the nonprofit organization to each fundraiser it holds is not reportable as a gift so long as the nondeductible portion does not exceed the gift limit.¹ Additionally, the cumulative value of the nondeductible portion of single tickets to multiple events cannot exceed the gift limit. In other words, if a 501(c)(3) organization holds more than one fundraiser during a calendar year, the nondeductible portion of the tickets is cumulated for purposes of the gift limit.

Nonprofit Organization (Non 501(c)(3)) Fundraiser

A single ticket provided by the nonprofit organization holding the fundraiser is a gift, but its value is reduced by the amount of the donation to the organization. If there is no ticket indicating a face value, or the ticket or other admission privilege has no stated price or no stated donation portion, the value of the gift is the official's pro rata share of the cost of any food and beverages, plus any other specific item presented to the official at the event.

Political Fundraiser

A single ticket provided by the candidate or committee holding the fundraiser and used by the official has no value if the fundraising event is for a California state or local

¹ The gift limit through the end of 2008 is \$390 from a single source during a calendar year. The gift limit for 2009-2010 will be \$420.

recipient committee as defined in Government Code Section 82013(a), or if the fundraising event is for a comparable committee regulated under federal law that is holding a fundraising event in California.

Questions and Answers

1. *I am a state legislator. I received a fundraiser ticket from a 501(c)(3) charitable organization. The face value (cost) of the ticket is \$500 and the ticket states that the tax deductible portion is \$350. May I accept the ticket and what, if anything, must I report?*

A. You may accept the ticket. The ticket is a gift but it has no value to report on your Statement of Economic Interests (Form 700) so long as you use it for your own attendance at the fundraiser. However, if the same organization holds more than one fundraising event during a calendar year and provides you with a single ticket to each event, the cumulative value of the nondeductible portion of all of the single tickets may not exceed the gift limit.

2. *What if I receive two tickets to the fundraiser and take a guest?*

A. The full face value of the second ticket is a gift to you. This ticket is reportable on your Form 700 and, because its value exceeds the \$390 gift limit, you must reimburse the organization for the amount over the gift limit (\$500 minus \$390 equals \$110). The reimbursement must be made within 30 days of the date you receive the ticket.

3. *What if a business associate or some other person purchases a table at a fundraiser and offers me a seat at their table?*

A. In order to qualify for the “no value” exception in Regulation 18946.4, you may only receive a single ticket for your own use from the 501(c)(3) organization, candidate, or committee holding the fundraiser. If another person or entity provides you with a ticket or other admission privilege, the full face value of the ticket or admission privilege is a reportable gift subject to the gift limit.

4. *What if I receive a single ticket from a 501(c)(3) organization holding a fundraiser and there is nothing on the ticket indicating the amount that is tax deductible?*

A. You must contact the organization to obtain that information in order to determine the portion that is subject to the gift limit.

5. *If I receive two tickets from a 501(c)(3) organization holding a fundraiser and use the second ticket for a guest, is the nondeductible portion of the first ticket cumulated with the face value of the second ticket for purposes of gift reporting and the gift limit?*

A. No. The calculation of the gift limit for the “no value” tickets is separate from the “gift” value of secondary tickets.

[Example] Assume the following three fundraising events are held by a single 501(c)(3) organization and you have received tickets from the organization holding the events. The single tickets described below may only be for your own use.

Event 1—Face value of ticket is \$500; tax deductible portion is \$400:

- Single ticket: Not reportable, but \$100 is counted toward the gift limit for single tickets to future events held by the organization.
- Second ticket: Reportable gift with a value of \$500. You pay the organization \$110 to reduce the value to \$390. (Payment must be made within 30 days of receipt.) You may receive no additional reportable gifts from the organization for the rest of the calendar year.

Event 2—Face value of ticket is \$300; tax deductible portion is \$150:

- Single ticket: Not reportable, but \$150 is counted toward the single ticket gift limit. Cumulative amount of nonreportable single tickets is now \$250.
- Second ticket: May not be accepted.

Event 3—Face value of ticket is \$1,000; tax deductible portion is \$750:

- Single ticket: If accepted, the cumulative nondeductible portion of all single tickets will be \$500, which is in excess of the \$390 gift limit. If you reimburse the organization \$110 within 30 days of receipt, the ticket is not reportable. However, you have reached the gift limit for single, no value tickets. Therefore, even single tickets to additional events received from the organization during the calendar year will be gifts for their full face value. Additionally, because the value of the second ticket you received to the first event was \$390, you may not accept any tickets or other reportable gifts from the organization for the rest of the calendar year.
- Second ticket: May not be accepted.

6. *What if the 501(c)(3) organization is holding a fundraiser that is not tax deductible; e.g., to raise funds for lobbying rather than for charitable purposes?*

A. If you receive a single ticket for your own use from the organization, use the valuation method for fundraisers for non-501(c)(3) organizations; i.e., you have received a gift for the face value of the ticket reduced by the amount of the donation. Additional tickets, or a ticket received from someone other than the organization, are gifts in the amount of their full face value.

7. *I am an employee of a state agency who is designated in the agency's conflict-of-interest code to file Form 700. What if I receive a ticket to a fundraiser from an organization or entity that is not the type of entity I am required to disclose?*

A. You may accept tickets or other admission privileges under these circumstances without limit or reporting. However, using the valuation method described above, if you receive gifts totaling \$390 or more from any single source, you may be disqualified from making or participating in making governmental decisions affecting that source for 12 months, even if you are not required to disclose the gift(s).

8. *I have received a ticket to attend a political fundraiser from a federal committee controlled by a California state officeholder. The event will be held in Washington, D. C. Am I required to disclose the ticket as a gift and is it subject to the gift limit?*

A. Yes, the face value of the ticket is a gift and subject to the gift limit because the event is not being held in California.

9. *If I receive a ticket to a fundraiser that will result in a reportable gift or a gift over the current gift limit, what are my options if I accept the ticket?*

A. You may reimburse the entity or organization that provided the ticket for the amount over the gift limit (or the amount over the \$50 gift reporting threshold if you do not want to disclose the ticket). Reimbursement must occur within 30 days of receipt of the ticket. If you are a candidate or elected official, you may use campaign funds to make the reimbursement if there is a political, legislative, or governmental purpose for the payment. A ticket you receive that you do not use and do not give to another person is not considered a gift to you.

10. *What if I receive two fundraiser tickets with an invitation that is addressed specifically to me and my spouse?*

A. If the second ticket is specifically designated for your spouse or another person, it is a gift to that person, not to you. However, if the invitation is addressed to you and a "guest," the second ticket is a gift to you for the full face value if you give the ticket to another person.

11. *The effective date of the amended regulation is October 4, 2008. What if I received a ticket before October 4 for a 501(c)(3) or political fundraiser held after October 4?*

A. The ticket is valued as of the date you received it. Therefore, the amended regulation will not apply. The ticket has no value and is not subject to the gift limit.